

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

David Snead II,

Plaintiff,

Case No. 20-11877

v.

Judith E. Levy

United States District Judge

Chad F. Wolf, et al.,

Mag. Judge Elizabeth A. Stafford

Defendants.

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**ORDER DISMISSING CASE WITHOUT PREJUDICE FOR  
FAILURE TO PROSECUTE AND FAILURE TO SERVE THE  
COMPLAINT [5]**

Plaintiff filed the complaint in this matter on July 10, 2020. (ECF No. 1.) The complaint named Chad F. Wolf and Adam Streetman as Defendants. (*Id.*) The Court issued summons for Defendants also on July 10, 2020. (ECF Nos. 2, 3, 4.) Defendants were not served within ninety days after the complaint was filed.

On February 1, 2021, the Court entered an order for Plaintiff to show cause in writing by February 8, 2021, why the case should not be dismissed for failure to prosecute pursuant to Eastern District of Michigan Local Rule 41.2. (ECF No. 5.) On February 3, 2021, Plaintiff

filed a request for additional time to respond to the show cause and find a new attorney. (ECF No. 7.) In this request, Plaintiff indicated that he would instruct Plaintiff's counsel, Quentin T. Docks II, to file a motion to withdraw as attorney of record and to extend the show cause date. (*Id.* at PageID.49.) On February 8, 2021, Plaintiff's counsel filed a motion to dismiss, which states that “[p]roof of service was unable to be located,” and requests “this court to dismiss this Court [sic] without Prejudice.” (ECF No. 6, PageID.47.)

On April 29, 2021, a hearing was held by video conference and oral argument was heard. Because Plaintiff has failed to satisfy the February 1, 2021 show cause order, Plaintiff's complaint is dismissed without prejudice for failure to prosecute pursuant to Eastern District of Michigan Local Rule 41.2.

Additionally, the Federal Rules of Civil Procedure provide that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for

service for an appropriate period.” Fed. R. Civ. P. 4(m). Plaintiff has not served the summons as of the date of this order and the ninety-day time limit for service has elapsed. Fed. R. Civ. P. 4(m). Plaintiff also has not shown good cause for failure to serve Defendants within the ninety-day timeframe.

Accordingly, Plaintiff’s complaint is DISMISSED WITHOUT PREJUDICE for failure to prosecute pursuant to Eastern District of Michigan Local Rule 41.2 and for failure to serve the complaint under Federal Rule of Civil Procedure 4(m).

IT IS SO ORDERED.

Dated: April 30, 2021  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on April 30, 2021.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager